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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/083,000  | 02/26/2002  | Paul M. Cosenza      | 12912-002001        | 4287             |
| 26161   | 7590        | 04/27/2005           | EXAMINER            |                  |
| FISH & RICHARDSON PC<br>225 FRANKLIN ST<br>BOSTON, MA 02110 |             |                      | SMITH, KIMBERLY S   |                  |
|   |             | ART UNIT             |                     | PAPER NUMBER     |
|   |             |                      |                     | 3644             |

DATE MAILED: 04/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

***Response to Amendment***

1. The reply filed on 02/22/05 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): the newly submitted claims are directed to an invention that is independent or distinct from the invention originally claimed as they are directed to a combination of clothing and protective elements whereas the claims as originally presented were only directed to the protective element. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 1-4 and 8-15 would be withdrawn from consideration as being directed to a non-elected invention. As such, there would be no claims remaining for prosecution in the instant application. See 37 CFR 1.142(b) and MPEP § 821.03. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly S Smith whose telephone number is 571-272-6909. The examiner can normally be reached on Monday thru Friday 10:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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